



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2014-0008]

State of Good Repair Grants Program: Final Circular

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of final circular.

SUMMARY: FTA has placed guidance in the docket and on its Web site, in the form of a circular, to assist recipients of financial aid under the 49 U.S.C. 5337 State of Good Repair (“SGR”) Grants Program. The circular provides instructions and guidance on program administration and the grant application process.

DATES: The effective date of the circular is [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: For program questions, contact Eric Hu, FTA Office of Program Management, 1200 New Jersey Ave., SE, Room E44-419, (202) 366-0870, Eric.Hu@dot.gov. For legal questions, contact Christopher Hall, FTA Office of Chief Counsel, same address, Room E54-413, (202) 366-5218, Christopher.Hall@dot.gov.

SUPPLEMENTARY INFORMATION:

Availability of Final Circular

This notice provides a summary of the circular and responses to comments received on the proposed version of the circular. The circular itself is not included in this notice. Instead, an electronic version of the circular can be found on FTA's Web site at www.fta.dot.gov, or in the docket at www.regulations.gov. Paper copies of the circular can be obtained by contacting FTA's Administrative Services Help Desk at (202 366-4865).

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I. Overview

The Moving Ahead for Progress in the 21st Century Act ("MAP-21"), Public Law 112-141, 126 Stat. 405 (2012), made significant changes to the Federal transit laws that are applicable across all of FTA's financial assistance programs. These changes further several important goals of the U.S. Department of Transportation. Most notably, MAP-21 grants FTA new authority to oversee and regulate the safety of public transportation systems in the United States and authorizes a new Public Transportation Safety Program at 49 U.S.C. 5329. MAP-21 also establishes a new National Transit Asset Management system at 49 U.S.C. 5326, including a new requirement for transit

asset management plans, performance measures and annual target setting based on a definition of “state of good repair,” and additional technical assistance from FTA.

MAP-21 also establishes the new SGR Grants Program at 49 U.S.C. 5337. In contrast to the repealed Fixed Guideway Modernization Program, the purpose of the SGR Grants Program is the maintenance, replacement, and rehabilitation of capital assets, along with the development and implementation of transit asset management plans.

These three new sections—the transit asset management provisions at section 5326, the Public Transportation Safety Program at section 5329, and the SGR Grants Program at section 5337—enhance the process by which a transit provider evaluates the SGR needs of capital assets. Section 5337 provides financial assistance for repairs, replacement or rehabilitation, as informed by conditions of capital assets and safety risk priorities. A transit provider’s safety and asset assessment informs its asset management process, which informs budgeting and project selection. On October 3, 2013, FTA published an advance notice of proposed rulemaking (“ANPRM”), 78 FR 61251, to request public comments on a wide range of topics related to the new Public Transportation Safety Program and the transit asset management provisions. FTA is currently reviewing the public input received in response to the ANPRM.

On March 3, 2014, FTA published a notice in the Federal Register (79 FR 11865) announcing the availability of a proposed version of this circular and requesting public comment. FTA received 12 individual responses that contained more than 60 comments. Commenters included eight transit providers, two metropolitan planning organizations (“MPO”), one advocacy association, and one architectural and engineering public contractor. This circular incorporates FTA’s responses to the comments.

II. Summary Discussion of Comments Received in Response to the Proposed Circular

Definitions

In the notice of availability for the proposed circular, FTA specifically sought public comment on several new or clarified definitions that would appear in the circular, including “bus rapid transit,” “commuter rail,” and “high intensity motorbus.” The largest number of comments FTA received related to definitions in the proposed circular.

Three commenters responded to FTA’s proposed elaboration of the definition of bus rapid transit (“BRT”). One commenter suggested that FTA should require shorter headways than FTA proposed, specifically that a bus rapid transit system should run maximum 15-minute headways for at least 14 hours on weekdays and for at least 10 hours on weekends. The same commenter proposed that, in addition to active signal priority and queue-jump lanes, BRTs be permitted to make use of any other “physical or signal improvements that reduce delay for buses at intersections.” Another commenter suggested that FTA eliminate the requirement for maximum headways altogether because it may lead to service levels that exceed demand. A third commenter suggested that FTA’s proposed definition of BRT was unnecessary, or that, in any case, the definition change should be proposed somewhere other than the circular because the definition change will have effects beyond the SGR Grants Program.

The requirement for maximum headways is necessary to give effect to the statutory definition of BRT at 49 U.S.C. 5302(2), and FTA cannot eliminate the requirement. BRT is statutorily defined as a system that “includes features that emulate the services provided by rail fixed guideway” and that has “short headway bidirectional services for a substantial part of weekdays and weekend days.” The definition of BRT in

the final circular clarifies these statutory requirements and adopts the proposed definition's requirements for maximum headways. The final circular preserves the proposed circular's flexibility for grantees to choose between 15-minute maximum headways throughout weekday service, or 10-minute maximum headways during weekday peak service hours and 20-minute maximum headways during off-peak weekday service. This option is designed to give project sponsors flexibility in designing BRT service. The final circular also requires 30-minute maximum headways on weekend service, instead of the 15-minute maximum headways suggested by the commenter, because 30-minute weekend headways will be more appropriate for the variety of providers that may seek FTA financial assistance to create BRT services. The maximum headways described in the final circular are, of course, maximums, and nothing in the final circular prevents a BRT operator from providing service with shorter headways.

The final circular does not incorporate the suggestion to allow BRTs to use other "physical or signal improvements that reduce delay for buses at intersections" as an alternative to active signal priority and queue-jump lanes. The statutory definition of BRT requires BRTs to include "traffic signal priority for public transportation vehicles," 49 U.S.C. 5302(2)(B)(ii), and the suggested language would have avoided this requirement. FTA intends to apply a similar definition of BRT to its Capital Investment Grant (CIG) Program to be consistent between programs and because the BRT definition in 49 U.S.C. 5302(2) closely matches that for the CIG program in 49 U.S.C. 5309(a). The only difference would be that the fixed-guideway element would not be required for Small Starts BRT projects that qualify as "corridor-based" projects, for which no dedicated right-of-way is required. Projects that qualify as corridor-based Small Starts

BRT projects would not be eligible for Section 5337 funding given that they do not meet the fixed-guideway element of the BRT definition in this circular.

One commenter suggested that the proposed definition of “rehabilitation” be amended to describe in detail how rehabilitation affects a vehicle’s useful life. Another commenter suggested that the definitions of both “rehabilitation” and “rebuild” be amended to refer to assets other than vehicles. The final circular does not incorporate these suggestions because rebuilding and rehabilitation and their effects on the useful lives of vehicles and other capital assets are already discussed elsewhere in the final circular and in FTA’s circular 5010.1D (Grant Management Requirements).

One commenter requested clarification as to whether a State’s governor must designate a regional transportation planning organization (“RTPO”) or regional transportation planning authority (“RTPA”) before the RTPO or RTPA can be the designated recipient of SGR Grant funds apportioned to a large urbanized area. Under the statutory definition of “designated recipient,” a regional authority need not be designated by the Governor of a State to become a designated recipient “if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.” 49 U.S.C. 5302(4)(B).

FTA’s project management oversight requirements apply to projects with costs in excess of \$100 million or other projects that FTA determines to be “major capital projects.” One commenter asked FTA to provide a definition of “major capital project” in the circular, and another commenter suggested that SGR Grants Program projects be exempted from the \$100-million trigger for project management oversight. FTA’s project management oversight program is required by statute, 49 U.S.C. 5327, and is

effected by regulation at 49 CFR part 633. The kinds of projects subject to project management oversight, including major capital projects designated as such by FTA's discretion, are already discussed in the regulation. The regulatory requirement for project management oversight of projects that involve "the rehabilitation or modernization of an existing fixed guideway with a total project cost in excess of \$100 million," is based upon the size and complexity of such projects, and not the grant program through which Federal funding is awarded.

As part of MAP-21's requirements for a national transit asset management system, FTA will, in a separate rulemaking, define the term "state of good repair." *See* 49 U.S.C. 5326(b)(1). Multiple comments suggested that, until FTA has finalized such a definition, it is premature to say that SGR Grants are available for projects that maintain systems in a state of good repair. FTA disagrees. Foremost, SGR Grants are available statutorily for certain eligible activities to "maintain public transportation systems in a state of good repair." 49 USC 5337(b)(1). Also, it is possible to determine the eligibility of SGR Grants activities described in the statute and final circular—e.g., projects for rehabilitation, rebuilding, or replacement—independently of a definition of state of good repair. FTA expects that a final definition of state of good repair will enhance and clarify the SGR Grants Program.

High-Occupancy Toll Lanes

Under the SGR Grants Program, an urbanized area's high-intensity motorbus apportionment is calculated based on vehicle revenue miles and directional route miles. FTA's current policy excludes high-occupancy toll ("HOT") lane miles from this calculation, except for certain "grandfathered" lanes that were recently converted from

high-occupancy vehicle (“HOV”) lanes to HOT lanes. In the notice of availability that accompanied the proposed circular, FTA proposed to exclude all HOT lanes from SGR Grants Program eligibility, including the grandfathered systems.

Several commenters responded to FTA’s proposed policy regarding the eligibility of HOT lanes as a form of high intensity motorbus. Some commenters asked FTA to clarify language in the proposed circular distinguishing between HOT lanes and other kinds of lanes. Some other commenters suggested that FTA should discard the proposed policy and consider HOT lanes to be an eligible form of high intensity motorbus.

The proposed circular included the following statement: “The State of Good Repair Grants Program provides capital assistance for replacement and rehabilitation projects for ... high intensity motorbus (buses operating in high-occupancy vehicle (HOV) lanes) or toll lanes with free access to HOVs) to maintain public transportation systems in a state of good repair. Projects in high-occupancy toll lanes are not eligible for State of Good Repair funding.” Several commenters asked FTA to distinguish between “toll lanes with free access to HOVs” and HOT lanes. The final circular clarifies the eligibility of HOT lanes by removing the words “or toll lanes with free access to HOVs.”

Some commenters suggested that FTA should amend its current policy and begin recognizing HOT lanes as eligible forms of high intensity motorbus transit. This would be inconsistent with the definition of high intensity motorbus, which is limited to transit that is provided “on a facility with access for other high-occupancy vehicles.” 49 U.S.C. 5337(d)(1). If this definition were broadened to include HOT lanes, which provide access to fee-paying single-occupancy vehicles as well as high-occupancy vehicles, the

definition could fairly include any lane that is used by both single-occupancy and high-occupancy vehicles.

Previously, FTA excluded HOT lanes from the SGR Grants Program except for certain “grandfathered” HOT lanes that had been recently converted from HOV to HOT lanes. The final circular ends this grandfathering provision. In considering the effect of this policy decision on recipients of SGR formula funding, FTA determined that as few as three urbanized areas may be negatively affected by the policy expressed in the final circular, and that other urbanized areas will benefit from the additional SGR funding available in the high intensity motorbus tier.

Eligible Activities

Some commenters requested clarification regarding FTA’s statement that SGR funds are not available to modernize assets. These commenters observed that when an asset is replaced, it is normal to replace the asset with its modern equivalent. The SGR Grants Program stands in contrast to the repealed Fixed Guideway Modernization program. The purpose of the SGR Grants Program is to maintain transit systems in a state of good repair, not to alter or modernize them. However, modernization that occurs as part of bringing assets into a state of good repair may be permissible. For example, rebuilding and rehabilitation projects, which are eligible activities under the SGR Grants Program, include the replacement of older features with new ones and the incorporation of current design standards.

The proposed circular stated that “[r]ebuilding work must be procured competitively from private sector sources, unless there are mitigating circumstances. In-house rebuilding must not interfere with normal maintenance activities.” One commenter

asked FTA to clarify whether the proposed requirement for rebuilding services to be procured competitively precluded or otherwise affected performing in-house rebuilding. FTA has provided clarity by deleting these sentences from the final circular and referring the reader to FTA's discussion of rebuilding in circular 5010.1, which does not exclude in-house rebuilding efforts.

Some commenters objected to the proposed circular's requirement that equipment, vehicles, or facilities to be replaced must have reached or exceeded their minimum useful lives to be eligible for SGR funds. The commenters observed that age alone should not be determinative of whether an asset requires replacement, especially with regard to technical assets that may be obsolete before the end of their useful lives. FTA agrees that asset age is not the sole determinant of whether an asset must be replaced, and useful life is not determinative of whether an asset is eligible for repair, rebuilding, or rehabilitation using SGR funds. Furthermore, a recipient may replace an asset using funds from other sources. However, FTA expects that an asset will have at least served its original useful life before it is replaced entirely using SGR funds, and the final circular retains this policy.

Some commenters suggested that FTA concurrence should not be required to create pre-award authority for projects that are covered by categorical exclusions ("CE") under the National Environmental Policy Act ("NEPA"), and that the circular expand the examples of SGR Grants projects that fall with CEs to include certain construction projects as well as vehicle and equipment purchases. One commenter also suggested that the circular restate and clarify the eligibility of property acquisitions prior to the completion of the NEPA review process. The same commenter also suggested that a

Letter of No Prejudice should not be required for projects using SGR funds awarded through multiple grants that span authorizations. The final circular clarifies the kinds of projects that may qualify for a CE to include “construction of transit facilities primarily within the transportation right-of-way,” or, for a documented CE, “real property acquisition and construction of transit facilities with features located outside of the transportation right-of-way” when such projects are only “slightly greater in scope than those qualifying as a CE.” A project that makes use of SGR funds without pre-award authority (e.g., through a fiscal year appropriation notice) requires a Letter of No Prejudice to incur costs for future reimbursement.

Miscellaneous Program Questions

Only miles of fixed guideway and high intensity motorbus transit that have been in revenue service for at least seven years are considered when calculating apportionments of SGR funding. One commenter asked FTA to clarify whether vehicle revenue miles must have been operated at attributable service levels continuously during the seven years. Yes, FTA’s intention is that the attributable revenue miles will have been operated continuously during the preceding seven-year period. Another commenter asked how the seven-year requirement affects new systems’ reporting to the National Transit Database (“NTD”). The seven-year requirement applies only to the SGR Grants Program and does not affect how bus transit is reported to the NTD.

One commenter asked FTA to clarify whether a supplemental agreement executed among FTA, a direct recipient, and a designated recipient, can be executed electronically in the electronic award management system. All applications for FTA grant funds must

be submitted electronically through FTA's electronic award management system. Any supplemental agreement should be attached electronically to the grant application.

One commenter asked FTA to clarify that designated recipients of SGR funding have discretion to distribute the funding among eligible recipients, and are not required to adhere to the formulas used by FTA to apportion SGR funds. The role of the designated recipient and the apportionment and allocation processes are already discussed in detail in chapters III and IV of the circular.

One commenter requested the FTA make SGR Grant funds available for the year of obligation, plus an additional five years, instead of the current year of obligation plus three years. FTA's policy in this area is consistent with other periods of availability that have been set by statute. For example, FTA's Bus and Bus Facilities Formula Grants also have a period of availability for the year of obligation plus three years. 49 U.S.C. 5339(g).

Some commenters had questions regarding the eligibility of transit projects for Congestion Mitigation and Air Quality ("CMAQ") funding. The CMAQ program is administered by the Federal Highway Administration and is obligated separately from FTA assistance. Certain transit projects may be eligible to receive CMAQ funding, in which case, the CMAQ funds obligated to the transit project are administered by FTA.

One commenter suggested that grant applicants be permitted to obtain FTA's concurrence on vehicle and equipment useful life assumptions at any time, and not just through the grant application process. For vehicles and equipment that do not already have established useful lives, a grant applicant can consult with FTA regarding useful life

at any time prior to making a grant application. However, specific useful life is established in the grant application.

One commenter requested clarification regarding grant budget revisions, particularly whether (a) adjustments to a grant's scope must be coordinated with the applicable STIP and (b) when FTA's approval is required to make a budget revision to a grant. The circular states that budget revisions must be consistent with the activities contained in an approved STIP. If changes to a grant's scope would make it inconsistent with its associated STIP, a STIP amendment will be required. FTA's approval is required when the Federal share of a grant exceeds \$100,000 and the change in the cumulative amount of funds allocated to each scope from the originally approved scope exceeds 20 percent. The 20-percent threshold refers to "each scope," not, as suggested by the commenter, to the sum of all budget revisions to all scopes under the grant.

One commenter requested clarification of when a grant recipient would be required to use the form entitled Sample Opinion of Counsel, which is included in the circular at Appendix C. Use of the form is required when a designated recipient agrees to permit another recipient to receive and dispense FTA financial assistance.

One commenter suggested that the circular should clarify that direct recipients are able to apply directly to FTA for an SGR grant. The final circular retains the definition of direct recipient as "[a]n eligible entity authorized by a Designated Recipient or State to receive State of Good Repair Grants Program funds directly from FTA," and no change is required.

Planning and Transit Asset Management (TAM)

Eventually, projects funded by the SGR Grants Program must be included in a recipient's transit asset management ("TAM") plan. One commenter asked FTA to clarify whether TAM requirements, specifically the requirements to create TAM plans and to set TAM targets apply only to direct recipients of SGR Grant funds or also to designated recipients of SGR Grant funds. The same commenter also asked if TAM plans must include all of a recipient's assets, or only assets acquired with Federal assistance. Statutorily, all "recipients and subrecipients" of assistance from FTA must develop TAM plans, and all "recipients" must establish TAM targets. 49 U.S.C. 5326(b)(2) and (c)(2). TAM plans must include "capital asset inventories". 49 U.S.C. 5326(a)(2). FTA expects to determine the specifics of these requirements through a separate rulemaking implementing the TAM requirements of 49 U.S.C. 5326.

Two commenters objected to the proposed circular's statement that, upon completion of FTA's TAM rulemaking, projects receiving SGR funds must be included in a recipient's TAM plan. The commenters suggested that this statement presupposed that, after the TAM rulemaking process, FTA would require TAM plans to be project-specific, rather than broadly categorical. The requirement for SGR Grants Program projects to be included in TAM plans is contained in statute at 49 U.S.C. 5337(b)(2) and is not an FTA proposal.

One commenter discussed the proposed circular's reference to the metropolitan and statewide-and-nonmetropolitan planning processes. Particularly, the commenter was concerned with the proposed circular's statement that a transportation improvement program ("TIP") or statewide transportation improvement program ("STIP") must

contain a description of the anticipated effect of the TIP or STIP towards achieving performance targets that have been incorporated into the planning process by metropolitan planning organizations (“MPO”) or States. The commenter asked FTA to clarify that FTA will not require transit providers to quantify the performance impacts of individual projects contained in TIPs or STIPs. FTA’s final circular retains the discussion of MPO and State planning because it is important to provide context for the SGR Grants Program within MAP-21’s broader emphasis on performance-based transportation planning. The proposed circular’s statement that TIPs and STIPs must discuss the effect of the TIP or STIP on achieving MPO or State performance targets closely paraphrases statutory requirements at 49 U.S.C. 5303(j)(2)(D) and 5304(g)(4), and for this reason has been left unchanged in the final circular. It is important to note that the TIP and STIP requirements apply to MPOs and States, not to transit providers, and this circular does not create new planning requirements for MPOs or States. FTA expects to establish TAM target setting for transit providers through a separate rulemaking, and the commenter is encouraged to provide comments in response to that expected proposed rule.

Other

FTA received several comments that were beyond the scope of the circular. Some of these comments referred to matters that will be the subject of future rulemakings or other circulars (e.g., TAM, safety regulations, a definition of “state of good repair”). Others discussed subjects that are of such general applicability to FTA’s programs that they are fully discussed in other guidance (e.g., application of Buy America requirements,

how to use TEAM/TRAMS). FTA encourages commenters with questions about these matters to contact FTA directly.

III. Chapter-by-Chapter Summary

A. Chapter I: Introduction and Background

Chapter I of the proposed circular is an introductory chapter that contains general information about FTA, a distinction between the new SGR Grants Program and previous programs that existed under previous authorization statutes, and a set of definitions applicable throughout the proposed circular. The final circular confirms the proposed definitions of bus rapid transit and commuter rail. For the reasons discussed above, the final circular limits the definition of high intensity motorbus to service that is provided on HOV lanes and excludes HOT lanes from the definition.

B. Chapter II: Program Overview

Chapter II provides general information about the SGR Grants program.

1. Statutory Authority

This section states the statutory authorization of the SGR Grants Program, which is codified at 49 U.S.C. 5337.

2. Program Goals

This section describes the program goals for the SGR Grants Program: the maintenance, repair or replacement of capital assets to bring fixed-guideway and high-intensity motorbus systems into a state of good repair. The SGR Grants Program is part of MAP-21's emphasis on improved safety, asset management, and restoring aging transit infrastructure.

3. FTA Role in Program Administration

This section describes the respective roles of FTA's headquarters and regional offices in program administration. The headquarters office is generally responsible for policy guidance and national program reviews, while the regional offices are generally responsible for day-to-day program administration, obligating funds, providing technical assistance, and reviewing recipients' compliance with Federal requirements.

4. Designated Recipient Role in Program Administration

This section explains that SGR Grants are apportioned to designated recipients. The term designated recipient is defined at 49 U.S.C. 5302(4), and designated recipients for purposes of the SGR Grants Program are the same as for the Urbanized Area Formula Grants Program.

5. Direct Recipient and Sub-Recipient Eligibility

This section describes how to establish a direct recipient and the process for allocating funds to direct recipients and for sub-awarding funds to subrecipients. A direct recipient is a public entity that may apply for some or all of an urbanized area's funding if certain requirements are met

6. FTA Oversight

This section describes the oversight conducted by FTA to ensure a recipient's compliance with grant program conditions. FTA performs comprehensive triennial reviews and may perform reviews focused specifically on a recipient's technical capability, procurement practices, civil rights compliance, safety and security, or other subject areas. Also, FTA may apply the Project Management Oversight Requirements to SGR grants for the rehabilitation of fixed guideway systems having total project costs in excess of \$100 million.

7. Relationship to Other Programs

This section discusses other FTA grant programs that have been repealed but for which funds may still be available, and programs created or amended by MAP-21. Funds previously authorized for programs that were repealed by MAP-21 remain available for their authorized purposes until the statutory period of availability expires or until the funds are fully expended, rescinded by the Congress, or reallocated.

C. Chapter III: General Program Information

This chapter discusses in more detail the apportionments for the SGR Grants Program.

1. Apportionment of Program Funds

This section states that FTA will apportion SGR Grants Program funds to designated recipients in urbanized areas with high intensity fixed guideway and high intensity motorbus systems. The section describes the statutory formula used to apportion funds under the SGR Grants Program. Of the funds appropriated to the SGR Grants Program by Congress, 97.15 percent is apportioned among urbanized areas with fixed guideway systems that have been in operation for at least 7 years, and 2.85 percent is apportioned among urbanized areas with high-intensity motorbus systems that have been in operation for at least 7 years.

An urbanized area's fixed guideway apportionment is determined by two calculations. Half of the apportionment is based on what the urbanized area would have received under the pre-MAP-21 fixed guideway modernization program, but using calculations contained in the current version of 49 U.S.C. 5336(b)(1). The other half of the apportionment is calculated based on fixed guideway service attributable to the

urbanized area, weighted 60-40 between vehicle revenue miles and directional route miles. Only segments of fixed guideway systems that have been in operation for at least 7 years prior to the start of a fiscal year are included in the calculation for any given fiscal year.

An urbanized area's high-intensity motorbus apportionment is calculated based on vehicle revenue miles and directional route miles. As with the fixed guideway calculation, the motorbus calculation is weighted 60-40 between vehicle revenue miles and directional route miles. Only segments of motorbus systems in operation for seven years prior to the start of a fiscal year are included in the calculation for any given fiscal year. The final circular clarifies that HOT lanes are not considered a form of high intensity motorbus and therefore are not included in the calculation of formula apportionments. As such, the FY 2016 SGR formula apportionments will reflect this final guidance.

2. Availability of Funds

SGR Grants Program funds are available for obligation during the fiscal year of appropriation plus three additional years. This period of availability is unchanged from the proposed circular.

3. Eligible Recipients

State and local government authorities in urbanized areas with qualifying fixed guideway or motorbus systems are eligible recipients.

4. Eligible Projects

This section describes projects eligible for SGR Grants Program funds. The SGR Grants Program is available for the maintenance, rehabilitation, or replacement of

existing capital assets. SGR grants are not available for projects that expand system capacity or service or modernize assets. However, FTA will permit expansion of capacity within replacement projects to meet current or projected short-term service needs (e.g., replacing a maintenance facility with a larger facility, or replacing a bus with a larger bus). Replacement and rehabilitation includes (1) replacement of older features with new ones; (2) incorporation of current design standards; and (3) additional features required by Federal requirements. For any expansion elements included in a replacement project, a grant recipient will need to address how the project meets current or short-term service levels. FTA will review the reasonableness of such expansion elements when reviewing the grant. This section also notes the eligibility of incorporating resilience features into SGR projects.

Funds apportioned under high intensity fixed guideway shall be available exclusively for fixed guideway projects. High intensity motorbus funds can be used interchangeably on any eligible high intensity motorbus or high intensity fixed guideway project. High intensity motorbus funds must be used for capital expenses of public transportation systems that provide regular, continuing shared-ride surface transportation service to the general public. The final circular clarifies the eligibility of certain projects for high intensity motorbus funding.

5. Federal Share of Project Costs

This section describes the requirement for local funding of projects assisted under the SGR Grants Program. The Federal share of a project generally shall not exceed 80 percent of the net project cost. This section also discusses exceptions to the 80-percent limitation.

6. Capital Cost of Contracting

This section describes the eligibility of recipients who contract with a third party for the provision of transit services and therefore do not have direct capital costs. In such situations, FTA can apply a concept called the “capital cost of contracting.”

7. Local Share of Project Costs

This section describes qualifying sources of the local share of a project.

8. Additional Sources of Local Share

This section describes qualifying sources of the local share of a project that have special requirements associated with their use.

9. Alternative Financing

This section describes alternative or innovative sources of project financing and the U.S. Department of Transportation’s Transportation Infrastructure Finance and Innovation Act (TIFIA) loans. Recipients are encouraged to investigate and pursue innovative financing methods for transit projects.

10. Deferred Local Share

This section describes a possible arrangement whereby a project sponsor may defer contributing the local share of project costs until the Federal share has been fully drawn down.

D. Chapter IV: Planning and Program Development

Chapter IV describes planning requirements that apply to most recipients of FTA funding and are common to most of FTA’s programs. The chapter contains a new section, Transit Asset Management (TAM), that describes the new national asset management system and the requirements for planning, target-setting, and reporting

placed on recipients of FTA funding that will be effective upon completion of rulemaking. Asset management and the management of safety risks should inform recipients' selection of SGR Grants Program projects. Other sections in chapter IV are: (2) Metropolitan and Statewide Planning Requirements; (3) Metropolitan Planning Areas; (4) Transportation Management Areas; (5) Performance-Based Planning; (6) Roles of Designated Recipient and Metropolitan Planning Organization in Allocating Program Funds; (7) Subarea Allocation; (8) Availability of FHWA "Flexible Funds" for Transit Projects; (9) Requirements Related to Vehicles and Equipment; (10) Requirements Related to Facilities; (11) Environmental Considerations; (12) Major Capital Projects; (13) Authority to Undertake Projects in Advance; and (14) Public Transportation Safety Requirements.

In response to comments received in response to the proposed circular, the final circular makes edits to three sections within Chapter IV. Section (7), Subarea Allocation, has been edited to clarify that although the MPO is not required to participate in the suballocation of program funds, FTA recommends that the designated recipient and MPO work together cooperatively in determining the suballocation of funds. Section (9), Requirements Related to Vehicles and Equipment, has been edited to improve clarity. Instead of containing a new discussion of FTA's rebuilding and overhaul policies, the section now refers the reader to FTA's primary discussion of the topic in circular 5010.1. Section (11), Environmental Considerations, has been edited to provide a more accurate description of the application of CEs under NEPA to SGR Grants Program projects, including construction-related projects. Section (13), Authority to Undertake Projects in

Advance, has been rewritten for consistency with recent changes to FTA's list of CEs at 23 CFR 771.118.

E. Chapter V: Program Management and Administrative Requirements

Chapter V describes management and administrative requirements that apply to FTA grants and are common to FTA's various programs. Sections included in chapter V are: (1) FTA Electronic Award Management System; (2) System for Award Management Requirements; (3) Data Universal Numbering System (DUNS) Registration Requirements; (4) DUNS Requirement for Subrecipients; (5) Electronic Clearing House Operation (ECHO) Requirements; (6) Federal Funding Accountability and Transparency Act (FFATA) Requirements; and (7) National Transit Database (NTD) Reporting.

F. Chapter VI: Other Provisions

Chapter VI describes some of the requirements and conditions that apply to FTA grants and are common to FTA's programs. Sections included in chapter VI are: (1) Introduction; (2) Charter Bus Services; (3) Civil Rights; (4) Clean Air Act (CAA); (5) Commercial Driver's License (CDL); (6) Debarment and Suspension; (7) Drug and Alcohol Testing; (8) Drug-Free Workplace; (9) Employee Political Activity; (10) Energy Conservation; (11) Environmental Reviews; (12) Intergovernmental Review; (13) Labor Protections; (14) Presidential Coin Act; (15) Private Sector Participation; (16) Use of Competitive Procurements; (17) Real Property Acquisition and Relocation Assistance; (18) Restrictions on Lobbying; (19) Safety and Security; (20) School Bus Transportation; (21) Seismic Design and Construction Standards; (22) Sensitive Security Information; and (22) State Safety Oversight.

G. Appendices

The final circular contains five appendices. Appendix A contains instructions for recipients preparing a grant application. Appendix B contains instructions for how to prepare a project budget. Appendix C contains example documents to assist recipients in applying for and managing an SGR grant. Appendix D contains FTA regional and metropolitan contact information. Appendix E contains a list of references for the circular.

Therese McMillan,
Acting Administrator.

[FR Doc. 2015-01530 Filed 01/27/2015 at 8:45 am; Publication Date: 01/28/2015]